

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 257

97TH GENERAL ASSEMBLY

0930H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, and 199.270, RSMo, and to enact in lieu thereof twelve new sections relating to tuberculosis testing, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, and 199.270, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 199.170, 199.180, 199.190, 199.200, 199.210, 199.240, 199.250, 199.260, 199.270, 199.275, 199.280, and 199.290, to read as follows:

199.170. The following terms, as used in sections 199.170 to [199.270] **199.350**, mean:

- (1) "Active tuberculosis", tuberculosis disease **caused by the mycobacterium tuberculosis complex** that is demonstrated to be contagious by clinical, bacteriological, or radiological evidence. Tuberculosis is considered active until cured;
- (2) "Cure" or "treatment to cure", the completion of a recommended course of therapy as defined in subdivision [(5)] **(11)** of this section and as determined by the attending physician **in conjunction with the local public health authority or the department of health and senior services;**
- (3) "Department", **the department of health and senior services;**
- (4) "Directly observed therapy" or "DOT", **a strategy in which a health care provider or other trained person watches a patient swallow each dose of prescribed antituberculosis medication;**
- (5) "Facility", **any hospital licensed under chapter 197, public nonlicensed hospital, long-term care facility licensed under chapter 198, health care institution, correctional or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **detention facility, or mental health facility approved by the local public health authority**
16 **or the department;**

17 **(6) "Immediate threat", a rebuttable presumption that a person has active**
18 **tuberculosis and:**

19 **(a) Is not taking medications as prescribed;**

20 **(b) Is not following the recommendations of the treating physician, local public**
21 **health authority, or the department;**

22 **(c) Is not seeking treatment for signs and symptoms compatible with tuberculosis;**
23 **or**

24 **(d) Evidences a disregard for the health of the public;**

25 **(7) "Isolation", the physical separation in a single-occupancy room to isolate**
26 **persons with suspected or confirmed infectious tuberculosis disease. An isolation should**
27 **provide negative pressure in the room, an airflow rate of six to twelve air changes per hour,**
28 **and direct exhaust of air from the room to the outside of the building or recirculation of**
29 **the air through a high efficiency particulate air (HEPA) filter;**

30 **(8) "Latent tuberculosis infection", infection with mycobacterium tuberculosis**
31 **without symptoms or signs of disease. Patients with such infection do not have tuberculosis**
32 **disease, are not infectious and cannot spread tuberculosis infection to others;**

33 **(9) "Local [board] public health authority", any legally constituted local city or county**
34 **board of health or health center board of trustees or the director of health of the city of Kansas**
35 **City, the director of the Springfield-Greene County health department, the director of health of**
36 **St. Louis County or the commissioner of health of the City of St. Louis, or in the absence of such**
37 **board, the county commission or the county board of tuberculosis hospital commissioners of any**
38 **county;**

39 **[(4)] (10) "Potential transmitter", any person who has the diagnosis of pulmonary or**
40 **laryngeal tuberculosis but has not begun a recommended course of therapy, or who has the**
41 **diagnosis of pulmonary tuberculosis and has started a recommended course of therapy but has**
42 **not completed the therapy. This status applies to any individual with tuberculosis, regardless of**
43 **his or her current bacteriologic status;**

44 **[(5)] (11) "Recommended course of therapy", a regimen of antituberculosis**
45 **chemotherapy in accordance with medical standards of the American Thoracic Society [and] ,**
46 **the Centers for Disease Control and Prevention, the Infectious Diseases Society of America,**
47 **or the American Academy of Pediatrics;**

48 **(12) "Targeted testing program", a program that screens all faculty and students**
49 **to identify those at high risk for latent tuberculosis infection and persons at high risk for**
50 **developing tuberculosis disease, and includes testing of identified high-risk populations to**

51 **determine those that would benefit from treatment. Screening shall require the completion**
52 **of a tuberculosis risk assessment questionnaire form recommended by the American**
53 **College of Health Association or the Centers for Disease Control and Prevention (CDC).**
54 **High risk populations include students from countries where tuberculosis is endemic or**
55 **students with other risk factors for tuberculosis as identified by the CDC.**

199.180. 1. A person found to have tuberculosis shall follow the instructions of the local
2 [board] **public health authority or the department**, shall obtain the required treatment, and
3 shall minimize the risk of infecting others with tuberculosis.

4 2. When a person with active tuberculosis, or a person who is a potential transmitter,
5 violates the rules, regulations, instructions, or orders promulgated by the department of health
6 and senior services or the local [board] **public health authority**, and is thereby conducting
7 himself or herself so as to expose other persons to danger of [infection] **tuberculosis**, after
8 having been directed by the local [board] **public health authority** to comply with such rules,
9 regulations, instructions, or orders, the local [board] **public health authority** may institute
10 proceedings by petition for **DOT or** commitment, returnable to the circuit court of the county
11 in which such person resides, or if the person be a nonresident or has no fixed place of abode,
12 then in the county in which the person is found. Strictness of pleading shall not be required and
13 a general allegation that the public health requires **DOT or** commitment of the person named
14 therein shall be sufficient.

15 3. If the [board] **public health authority** determines that a person with active
16 tuberculosis, or a person who is a potential transmitter, poses an immediate threat by conducting
17 himself or herself so as to expose other persons to an immediate danger of [infection]
18 **tuberculosis**, the [board] **public health authority** may file an ex parte petition for emergency
19 temporary commitment pursuant to subsection 5 of section 199.200.

199.190. No potential transmitter who in his **or her** home or other place obeys the rules
2 and regulations of the **public health authority or the** department of health and senior services
3 **and the policies of the treating facility** for the control of tuberculosis or who voluntarily
4 accepts care in a tuberculosis institution, [sanatorium,] hospital, [his] home, or other place and
5 obeys the rules and regulations of the **public health authority or the** department of health and
6 senior services for the control of contagious tuberculosis shall be committed under the provisions
7 of sections 199.170 to [199.270] **199.350**.

199.200. 1. Upon filing of the petition, the court shall set the matter down for a hearing
2 either during term time or in vacation, which time shall be not less than five days nor more than
3 fifteen days subsequent to filing. A copy of the petition together with summons stating the time
4 and place of hearing shall be served upon the person three days or more prior to the time set for
5 the hearing. Any X-ray picture and report of any written report relating to sputum examinations

6 certified by the department of health and senior services or local [board] **public health authority**
7 shall be admissible in evidence without the necessity of the personal testimony of the person or
8 persons making the examination and report.

9 2. The prosecuting attorney or the city attorney shall act as legal counsel for their
10 respective local [boards] **public health authorities** in this proceeding and such authority is
11 hereby granted. The court shall appoint legal counsel for the individual named in the petition
12 if requested to do so if such individual is unable to employ counsel.

13 3. All court costs incurred in proceedings under sections 199.170 to [199.270] **199.350**,
14 including examinations required by order of the court but excluding examinations procured by
15 the person named in the petition, shall be borne by the county in which the proceedings are
16 brought.

17 4. Summons shall be served by the sheriff of the county in which proceedings under
18 sections 199.170 to [199.270] **199.350** are initiated and return thereof shall be made as in other
19 civil cases.

20 5. Upon the filing of an ex parte petition for emergency temporary commitment pursuant
21 to subsection 3 of section 199.180, the court shall hear the matter within ninety-six hours of such
22 filing. The local [board] **public health authority** shall have the authority to detain the
23 individual named in the petition pending the court's ruling on the ex parte petition for emergency
24 temporary commitment. If the petition is granted, the individual named in the petition shall be
25 confined in a facility designated by the department of health and senior services in accordance
26 with section 199.230 until a full hearing pursuant to subsections 1 to 4 of this section is held.

199.210. 1. Upon the hearing set in the order, the individual named in the order shall
2 have a right to be represented by counsel, to confront and cross-examine witnesses against him
3 **or her**, and to have compulsory process for the securing of witnesses and evidence in his **or her**
4 own behalf. The court may in its discretion call and examine witnesses and secure the
5 production of evidence in addition to that adduced by the parties; such additional witnesses being
6 subject to cross-examination by either or both parties.

7 2. Upon a consideration of the petition and evidence, if the court finds that the person
8 named in the petition is a potential transmitter and conducts himself **or herself** so as to be a
9 danger to the public health, an order shall be issued committing the individual named in the
10 petition to a facility designated by the department of health and senior services and directing the
11 sheriff to take [him] **such individual** into custody and deliver him **or her** to the facility **or**
12 **designated pickup location**. If the court does not so find, the petition shall be dismissed. The
13 cost of transporting the person to the facility **or pickup location** designated by the department
14 of health and senior services shall be paid out of general county funds.

15 **3. The department may contract for the care of any tuberculosis patient. Such**
16 **contracts shall provide that state payment shall be available for the treatment and care of**
17 **such patients only after benefits from all third-party payers have been exhausted.**

199.240. No person committed to a facility designated by the department of health and
2 senior services under sections 199.170 to [199.270] **199.350** shall be required to submit to
3 medical or surgical treatment without [his] **such person's** consent, or, if incapacitated, without
4 the consent of his **or her** legal guardian, or, if a minor, without the consent of a parent or next
5 of kin, **unless authorized by a written order of the circuit court under section 199.200, or**
6 **as otherwise permitted by law.**

199.250. 1. The department of health and senior services may contract for such facilities
2 [at the Missouri rehabilitation center] as are necessary to carry out the functions of sections
3 199.010 to 199.350. Such contracts shall be exempt from the competitive bidding requirements
4 of chapter 34.

2. State payment shall be available for the treatment and care of individuals committed
6 under section 199.210 only after benefits from all third-party payers have been exhausted.

199.260. Any person committed under the provisions of sections 199.170 to [199.270]
2 **199.350** who leaves the facility designated by the department of health and senior services
3 without having been discharged by the director of the facility or other officer in charge or by
4 order of court shall be taken into custody and returned thereto by the sheriff of any county where
5 such person may be found, upon an affidavit being filed with the sheriff by the director of the
6 facility, or duly authorized officer in charge thereof, to which the person had been committed.
7 **The action may be prosecuted under section 199.275 if appropriate.**

199.270. Any time after commitment, the patient [or any friend or relative] **or, if**
2 **incapacitated, the patient's legal guardian, or if a minor, a parent or next of kin,** having
3 reason to believe that such patient no longer has contagious tuberculosis or that his **or her**
4 discharge will not endanger public health, may institute proceedings by petition, in the circuit
5 court of the county [wherein the confinement exists] **that originally issued the order for**
6 **commitment**, whereupon the court shall set the matter down for a hearing before [him] **the**
7 **court** within fifteen days requiring the [person or persons to whose care the patient was
8 committed] **local public health authority** to show cause on a day certain why the patient should
9 not be released. The court shall also require that the patient be allowed the right to be examined
10 prior to the hearing by a licensed physician of [his] **the patient's** own choice, if so desired, and
11 at [his] **the patient's** own personal expense. Thereafter all proceedings shall be conducted the
12 same as on the proceedings for commitment with the right of appeal by either party as herein
13 provided; provided, however, such petition for discharge shall not be brought or renewed
14 [oftener] **more** than once every six months.

199.275. 1. It shall be unlawful for any person knowingly infected with active pulmonary or laryngeal tuberculosis to:

(1) Act in a reckless manner by exposing another person to tuberculosis without the knowledge and consent of such person to be exposed to tuberculosis; or

(2) Report to work with active contagious tuberculosis. The person may report to work if adhering to his or her prescribed treatment regimen and is deemed noninfectious by the attending physician in conjunction with the department or the local public health authority; or

(3) Violate the requirements of a commitment order.

2. Any person who violates subdivisions (1), (2), or (3) of subsection 1 of this section is guilty of a class B misdemeanor unless the victim contracts tuberculosis from such contact, in which case it is a class A misdemeanor.

199.280. The department retains all powers granted under section 192.020 in responding to tuberculosis cases, outbreaks, and tuberculosis disease investigations.

199.290. 1. All employees and volunteers of a health care facility shall receive a tuberculin skin test or interferon-gamma release assay (IGRA) test upon employment as recommended in the most recent version of the Centers for Disease Control and Prevention (CDC) Guidelines for Preventing Transmission of Mycobacterium Tuberculosis in Health Care Settings. If the screening test is positive, appropriate evaluation and follow-up shall be done in accordance with such CDC guidelines. This provision shall not be construed to prohibit any institution from establishing requirements for employees or volunteers that exceed those stated in the CDC guidelines.

2. All institutions of higher education in Missouri shall implement a targeted testing program on their campuses for all on-campus students and faculty upon matriculation. If an institution does not have a student health center or similar facility, such person identified by the targeted testing program to be at high risk for latent tuberculosis infection or for developing tuberculosis disease shall be referred to a local public health agency for a course of action consistent with sections 199.170 to 199.350.

3. Any entering student of an institution of higher education in Missouri who does not comply with the targeted testing program shall not be permitted to maintain enrollment in the subsequent semester at such institution.

4. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective

23 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
24 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,**
25 **shall be invalid and void.**

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